

NEPA Draft Report Comments  
c/o NEPA Task Force  
Committee on Resources  
1324 Longworth House Office Building  
Washington, DC

To whom it may concern:

I have worked in the NEPA compliance field for 14 years professionally and another 6 years in producing cultural resource studies. I have managed or assisted in managing NEPA documents across the country for a wide variety of Federal agencies and for third-party customers such as municipalities, telecommunications companies, energy companies, and tribes.

**General comments:**

The question of NEPA's intent was a topic discussed in the draft report, but it is handled anecdotally. NEPA is first and foremost a *policy* act; it is not a regulatory statute. It defines a national policy (Section 4321). The procedures are designed to force agencies to pay attention to this national policy by identifying and assessing environmental impacts and disclosing them to public. Unlike other environmental laws, it is not about specific remedial actions or meeting a narrow standard, but in making informed, holistic decisions about the use of public resources and the future.

One of the great strengths of NEPA is that compliance decisions and implementing regulations are tailored by the affected Federal agencies. While that can sometimes lead to a tunnel vision that can ignore other points of view and can be tainted by political appointees, it is far superior to the perils of the legislative process. NEPA sets out a broad policy and its implementation has been very successful and flexible in adapting to the needs of each agency. I do not see the need for statutory changes to NEPA. CEQ came to the same conclusion a few years ago in a very open task force process that was more inclusive of people with NEPA expertise.

Most of the "problems" with NEPA that have been cited are related to the lack of staffing, training, financial commitment and management backbone at the agency level. Agencies need to commit to the NEPA process and the people doing it. They need to do the work of collecting the information, engaging the public and making good decisions. It needs to be a higher priority for the agencies. There needs to be a compelling reason for interagency cooperation and participation.

### Specific Comments:

Recommendation 1.1: Amend NEPA to define “major federal action.”	The current definition at 1508.18 is quite detailed and clear. Implementation decisions should be left to the judgment of the Federal agency with the expertise in the actions that it conducts with the oversight of the public.
Recommendation 1.2: Amend NEPA to add mandatory timelines for the completion of NEPA documents.	This proposal makes no sense at all in the context of the problems cited above and the need to gather data in order to make informed decisions. Obviously the issue of staffing, agency commitment etc. is key to completing documents within these timelines. Often supporting studies are needed that can only be addressed seasonally (biological) or when weather permits. Often the agencies that one must partner with do not have the staff or resources to review or complete their permitting processes. Agency collaboration, good science and public participation take time. Artificial deadlines create an incentive for delay for applicant-prepared document. The assumption that an analysis can be considered “complete” based on an arbitrary deadline is contrary to the purpose of the act and the policy laid out in Section 4321.
Recommendation 1.3: Amend NEPA to create unambiguous criteria for the use of Categorical Exclusions (CE), Environmental Assessments (EA) and Environmental Impact Statements (EIS).	Again, decisions about the appropriate level of NEPA that should be left to the federal agency with the oversight of the public. Minimally, there should field surveys to determine whether there are environmental resources or site specific issues before implementing any CEs and a programmatic assessment of any potential effects of cumulative actions. We have seen attempted abuses of the use of the CEs in recent years.
Recommendation 1.4: Amend NEPA to address supplemental NEPA documents. A provision would be added to NEPA to codify criteria for the use of supplemental NEPA documentation.	This is already the standard policy in most agencies. No need for a statutory change.
Recommendation 2.1: Direct CEQ to prepare regulations giving weight to localized comments.	<p>This proposal completely misunderstands the purpose of commenting in NEPA: to address the adequacy of the NEPA analysis or the merits of the proposed action. Commenting is not a vote. Good NEPA practice would include a public meeting in affected communities, but no one should be precluded from commenting or have their comment discounted because they don’t live in the project vicinity. Millions of Americans have concerns with environmental decision-making in communities outside of their own.</p> <p>I have witnessed that certain federal agencies are not very good at working within local land use restrictions or encouraging applicants to work within zoning regulation (FCC for wireless sites, for example) and this should be required.</p> <p>NEPA decisions often address the use of public resources. The use or</p>

	exploitation of public resources should not be determined only by local interests at the expense of the national interests. Please refer to the Section 4321
Recommendation 2.2: Amend NEPA to codify the EIS page limits set forth in 40 CFR 1502.7.	This is an artificial limit. The size of the document should be determined by the analysis and information that needs to be made available to the public. Good NEPA practice always includes summaries and public involvement materials for those who are intimidated by a large document.
Recommendation 3.1: Amend NEPA to grant tribal, state and local stakeholders cooperating agency status.	This proposal is based on the false premise that political subdivisions are generally ignored. Generally in large project agencies are invited to participate.
Recommendation 3.2: Direct CEQ to prepare regulations that allow existing state environmental review process to satisfy NEPA requirements.	Very few states such as California and Washington have review processes that are roughly equivalent to NEPA. Typically these are closely coordinated already in my experience. Texas's oil site review process is not equivalent to the BLM and should not be considered as such.
Recommendation 4.1: Amend NEPA to create a citizen suit provision.	Standing should be granted to interested groups regardless of whether they can demonstrate that they would be personally impacted by the action. NEPA is about a holistic national policy and citizen participation should not be limited.
Recommendation 5.1: Amend NEPA to require that "reasonable alternatives" analyzed in NEPA documents be limited to those which are economically and technically feasible.	No change needed.
Recommendation 5.2: Amend NEPA to clarify that the alternative analysis must include consideration of the environmental impact of not taking an action on any proposed project.	Good NEPA practice includes a hard look at the No Action Alternative. No change needed.
Recommendation 5.3: Direct CEQ to promulgate regulations to make mitigation	Good recommendation

proposals mandatory.	
Recommendation 6.1: Direct CEQ to promulgate regulations to encourage more consultation with stakeholders.	Good recommendation
Recommendation 8.1: Amend NEPA to clarify how agencies would evaluate the effect of past actions for assessing cumulative impacts.	Good recommendation
Recommendation 8.2: Direct CEQ to promulgate regulations to make clear which types of future actions are appropriate for consideration under the cumulative impact analysis.	Reasonably foreseeable is a proper standard. The analysis should not have to be based on firm proposals.
Recommendation 9.1: CEQ study of NEPA's interaction with other Federal environmental laws	Not needed.
Recommendation 9.2: CEQ Study of current Federal agency NEPA staffing issues. Within 1 year of the publication of The Task Force final recommendations, the CEQ (with necessary assistance and support from the Office of Management and Budget) will be directed to conduct a study and report to the	All practioners understand already that this is the number 1 problem and it is something that has a legislative solution.

House Committee on Resources that details the amount and experience of NEPA staff at key Federal agencies.	
9.3: CEQ study of NEPA's interaction with state "mini-NEPAs" and similar laws.	Not needed.

Thank You

Kevin Doyle  
4 Espira Road  
Santa Fe, NM 87508